



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No. 210324-0065]**

**RIN 0648-BK26**

#### **Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approval of 2021 and 2022 Sector Operations Plans and Allocation of 2021 Northeast Multispecies Annual Catch Entitlements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** We propose to approve sector operations plans and contracts, and grant regulatory exemptions for fishing years 2021 and 2022, provide preliminary Northeast multispecies annual catch entitlements to approved sectors for fishing year 2021, amend regulations required to administer electronic monitoring, and announce 2021 default specifications for seven Northeast multispecies stocks. Approval of sector operations plans and contracts is necessary to allocate annual catch entitlements to the sectors for sectors to operate. This action is intended to allow limited access permit holders to continue to operate or form sectors, as authorized under the Northeast Multispecies Fishery Management Plan, and to exempt sectors from certain effort control regulations to improve the efficiency and economics of sector vessels. We also announce our determination that electronic monitoring is sufficient for use instead of at-sea monitors to meet sector monitoring and reporting requirements. Lastly, we announce default specifications for Gulf of Maine winter flounder, Southern New England/Mid-Atlantic

winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern Georges Bank cod, and Eastern Georges Bank haddock.

**DATES:** Written comments must be received on or before [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2021-0024, by the following method:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA-NMFS-2021-0024 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of each sector’s proposed operations plan and contract are available from the NMFS Greater Atlantic Regional Fisheries Office: Contact Claire Fitz-Gerald at *Claire.Fitz-Gerald@noaa.gov* and Kyle Molton at *Kyle.Molton@noaa.gov*. These documents are also accessible via the Federal eRulemaking Portal:  
*http://www.regulations.gov*.

To review **Federal Register** documents referenced in this rule, you can visit:  
*https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan*.

**FOR FURTHER INFORMATION CONTACT:** Claire Fitz-Gerald, Fishery Policy Analyst, (978) 281-9255.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Northeast Multispecies Fishery Management Plan (FMP) defines a sector as a group of persons holding limited access Northeast multispecies permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) [*sic*] in order to achieve objectives consistent with applicable FMP goals and objectives. A sector must be comprised of at least three Northeast multispecies permits issued to at least three different persons, none of whom have any common ownership interest in the permits, vessels, or businesses associated with the permits issued [to] the other two or more persons in that sector. Sectors are self-selecting, meaning each sector can choose its members.

The Northeast multispecies sector management system allocates a portion of the Northeast multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. Sectors may receive allocations of large-mesh Northeast multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout, which are non-allocated species managed under separate effort controls. ACEs are portions of a stock's annual catch limit (ACL) available to commercial Northeast multispecies vessels. A sector determines how to harvest its ACE.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several "universal" exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; Northeast multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-centimeters (cm)) mesh codend when fishing with selective gear on Georges Bank (GB);

and portions of the Gulf of Maine (GOM) Cod Protection Closures. The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the approved sectors, there are several state-operated permit banks, which receive allocations based on the history of the permits owned by the states. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with the administrative and procedural requirements for sectors (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of participating permits to us, as specified in the permit bank's Memorandum of Agreement, to determine the ACE allocated to the permit bank. These allocations may be leased to fishermen enrolled in sectors. State-operated permit banks are no longer approved through the sector approval process, but current state-operated permit banks contribute to the total allocation under the sector system.

We received operations plans and preliminary contracts for fishing years 2021 and 2022 from 16 sectors. The operations plans are similar to operations plans and contracts previously approved for prior fishing years. The operations plans include 19 exemptions previously requested by sectors, and approved by NMFS, in fishing year 2020. One sector's operations plan also includes a new exemption request for fishing year 2021. We have made a preliminary determination that the 16 sector operations plans and contracts that we received, and the 19 previously approved regulatory exemptions requested, are consistent with the FMP's goals and objectives, and meet sector requirements outlined in the regulations at § 648.87. We are not approving the new sector exemption requested for fishing year 2021. Copies of the operations plans and contracts, and the environmental assessment (EA), are available at:

*<http://www.regulations.gov> and from NMFS (see **ADDRESSES**).*

This rulemaking also announces our determination that electronic monitoring (EM) is sufficient for use instead of at-sea monitors (ASM) to meet sector monitoring requirements. This action implements minor regulatory changes required to administer EM. These changes are implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are implementing these changes in conjunction with the sector rule for expediency purposes.

### **Catch Limits for Fishing Year 2021**

#### *Previously Established Catch Limits*

Last year, Framework 59 to the FMP set fishing year 2021 catch limits for 15 groundfish stocks (85 FR 45794; July 30, 2020). The 2021 catch limits for most stocks remain the same as, or similar, to 2020 limits. Framework 59 did not specify a 2021 catch limit for GOM winter flounder, Southern New England/Mid-Atlantic (SNE/MA) winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern GB cod, or Eastern GB haddock. Eastern GB cod and haddock are management units of the GB cod and GB haddock stocks that NMFS manages jointly with Canada, and the shared quota is set annually.

This year, in Framework 61 to the FMP, the Council adopted new or adjusted fishing year 2021 catch limits for: GB haddock; GB yellowtail flounder; GB winter flounder; GOM winter flounder; SNE/MA winter flounder; redfish; Northern windowpane flounder; Southern windowpane flounder; ocean pout; Atlantic halibut; and Atlantic wolffish. Framework 61 would set 2021 catch limits for the two U.S./Canada stocks (Eastern GB cod and Eastern GB haddock). It would adjust the breakdown of sub-components for GB cod, GOM cod, SNE/MA yellowtail flounder, CC/GOM yellowtail flounder, witch flounder, and white hake. Framework 61 also included the exemption for sector vessels to target redfish with codend mesh as small as 5.5 inches (13.97 cm) as a universal exemption. We are working to publish a proposed rule to request comments on

the Framework 61 measures once the Council submits the action to us for review and approval. We do not expect we will not be able to implement Framework 61 measures, if approved, before May 1, 2021.

As a result, this rule announces the 2021 catch limits set in Framework 59 that would be effective on May 1, 2021, including preliminary sector and common pool allocations based on final 2020 fishing year rosters (Table 1). If we approve Framework 61, the 2021 catch limits announced in this rule for these stocks will change.

The Framework 59 fishing year 2021 ACL for GB yellowtail flounder is 95.4 metric tons (mt), which will be in place on May 1. The Council recommended a fishing year 2021 ACL of 63.6 mt for GB yellowtail flounder in Framework 61. This is a 33-percent decrease, which will go into effect after May 1 if Framework 61 is approved. The Council also revised the fishing year 2021 ACL for GOM cod to 270.4 mt. This a 2-percent decrease from the fishing year 2021 ACL previously set in Framework 59. The adjustments are based on the recommendation of the Transboundary Management Guidance Committee, which is the joint U.S./Canada management body that meets annually to recommend shared quotas for the three transboundary stocks. The Council's recommendations will be further discussed in the Framework 61 proposed rule. We are highlighting these changes in this rule because the GB yellowtail flounder and GOM cod sector allocations proposed in this rule are based on the higher 2021 catch limits previously approved in Framework 59. If the Council's recommended catch limits become final with no changes, ACE for these stocks will be reduced when Framework 61 is implemented.

#### *Default Catch Limits*

This rule also announces default catch limits for GOM winter flounder, SNE/MA winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern GB cod, and Eastern GB haddock. These stocks do not already have a catch limit in place for fishing year 2021.

The groundfish regulations implement default catch limits for any stock for which final specifications are not in place by the beginning of the fishing year on May 1. The FMP's default specifications provision sets catch at 35 percent of the previous year's (2020) catch limits, except in instances where the default catch limit would exceed the Council's recommendation. The fishing year 2021 state waters and other sub-components specified for redfish in Framework 59 exceed the Council's fishing year 2021 redfish recommendation in Framework 61. These sub-components would be reduced accordingly. The default catch limit would be effective from May 1 through July 31, or until the final rule for Framework 61 is implemented if prior to July 31. To comply with these regulations and minimize impacts on the fishery we are announcing these default specifications. If Framework 61 is not in place on or before July 31, all fishing for these stocks would be prohibited beginning August 1.

**Table 1 -- Northeast Multispecies Catch Limits for 2021**

Stock	Total ACL	Groundfish sub-ACL	Preliminary Sector sub-ACL	Preliminary Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod*	1,234	1,073	1,041	31					19	142
GOM Cod*	523	468	267	9	193				48	7
GB Haddock*	72,699	70,892	69,465	1,428		1,424			0	383
GOM Haddock*	15,843	15,575	10,022	258	5,295	156			56	56
GB Yellowtail Flounder*	116	95	92	3			19	2	0	0
SNE/MA Yellowtail Flounder*	21	15	12	3			2		0	4
CC/GOM Yellowtail Flounder*	787	688	656	32					58	41
American Plaice*	2,740	2,682	2,611	71					29	29
Witch Flounder*	1,414	1,310	1,275	35					44	59
GB Winter Flounder*	545	522	502	21					0	22
GOM Winter Flounder*	151	100	95	5					48	2
SNE/MA Winter Flounder*	245	189	166	22					13	43
Redfish*	3,973	3,931	3,880	51					0	0
White Hake*	2,041	2,019	1,995	24					11	11
Pollock*	21,047	19,282	19,092	190					882	882
N. Windowpane Flounder*	55	38	na	38			12		1	5
S. Windowpane Flounder*	412	48	na	48			143		26	196
Ocean Pout*	42	32	na	32					0	9
Atlantic Halibut*	102	77	na	77					21	4
Atlantic Wolffish	29	29	na	29					0	0

\*These catch limits are based on fishing year 2021 Framework 59 and/or default specifications, and will be replaced when the final rule for Framework 61 becomes effective, if approved.



## **Sector Allocations**

The sector allocations proposed in this rule are based on the 2021 catch limits established in Framework 59 and final fishing year 2020 sector rosters. Regulations require that sectors submit membership information to us on December 1 prior to the start of the fishing year, unless instructed otherwise. The Regional Administrator has determined that the December 1 enrollment deadline is not possible because we had yet to distribute the annual letter describing each vessel's potential contribution to a sector's quota for the upcoming fishing year. We distributed the letters in early February 2021. The deadline to enroll in a sector is approximately 4 weeks later, on March 8, 2021, although sectors may set a more restrictive deadline for their members. Because sector enrollment has been stable and consistent since the sector program was enacted, we are using fishing year 2020 rosters as a proxy for fishing year 2021 sector membership to calculate fishing year 2021 projected allocations in this proposed rule.

Any permits that change ownership after the enrollment deadline determined by the Regional Administrator as described above retain the ability to join a sector through April 30, 2021. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2021, to withdraw from a sector and fish in the common pool for fishing year 2021. For fishing year 2022, we will set similar roster deadlines, notify permit holders of the fishing year 2022 deadlines, and allow permit holders to change sectors separate from the annual sector operations plans approval process.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 2 shows the projected total fishing year 2021 PSC by stock for the 16 sectors approved to operate in fishing year 2020 that submitted operations plans for 2021. Tables 3 and 4 show the initial allocations that each sector would be allocated for fishing year 2021 based on their final fishing year

2020 rosters and the fishing year 2021 Framework 59 and default specifications. At the start of the 2021 fishing year, we provide final allocations, to the nearest pound, to each sector based on their final May 1 rosters. We use these final allocations, along with later adjustments for ACE transfers, reductions for overages, or increases for carryover from fishing year 2020, to monitor sector catch. We have included the preliminary common pool sub-ACLs in tables 2 through 4 for comparison. These tables do not represent the final allocations for the 2021 fishing year.

We do not assign a permit separate PSCs for Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area, but may "convert," or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2021, we may withhold 20 percent of each sector's fishing year 2021 allocation until we finalize fishing year 2020 catch information. We expect to finalize 2020 catch information in summer 2021. We allow sectors to transfer fishing year 2020 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2020 overages. If necessary, we reduce any sector's fishing year 2021 allocation to account for a remaining overage in fishing year 2020.

Each year of the operations plans, we notify the Council and sector managers of this deadline in writing and announce our final ACE determination on our website at:

*[https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/groundfish\\_catch\\_accounting](https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/groundfish_catch_accounting).*

**Table 2 -- Preliminary Cumulative PSC (percentage) Each Sector Would Receive by Stock for Fishing Year 2021\***

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	71	12.52998071	0.73401354	1.91835326	0.20788439	0.84655142	0.72002673	2.14380856	0.51837750	1.16323846	0.07169861	12.69711109	1.19821088	0.56862766	1.05536784	3.38554643
Maine Coast Community Sector	87	2.32937125	11.91789444	3.13835995	8.99483874	1.77876418	1.49862532	3.67613525	12.28186554	9.69843127	1.01112055	3.72925957	1.83983235	8.58318455	13.21670847	12.62269930
Maine Permit Bank	11	0.13361103	1.15503867	0.04432773	1.12455699	0.01377701	0.03180705	0.31794656	1.16407583	0.72688452	0.00021715	0.42662327	0.01789120	0.82190532	1.65422882	1.69505501
Mooncusser Sector	40	11.87404994	3.36592802	3.72602983	3.03406286	0.38302570	0.32527727	2.58549375	0.76474219	1.71821481	0.89399263	2.48392191	2.26957436	2.65202110	5.80626985	5.44388052
NEFS 1	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 2	133	6.50870665	26.86079901	10.68754273	22.47357871	1.90743001	1.67879303	25.10661815	11.13325653	14.58958286	3.21717811	24.59966320	4.21649557	15.44784480	9.36636752	14.83240039
NEFS 3	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 4	58	7.40275568	11.14488493	5.81741902	8.87479953	2.16178984	2.26424835	6.38868785	9.51518694	8.85677985	0.69256854	7.43011764	0.99121910	6.67292639	8.26903303	6.86546011
NEFS 5	24	0.47997081	0.00066296	0.81554785	0.00357898	1.27619665	20.04779653	0.20523908	0.43227120	0.56080437	0.43636655	0.01160596	12.03962035	0.01449126	0.09437284	0.04251818
NEFS 6	26	3.15560673	3.15154289	3.58637352	4.40638800	3.30346794	5.11479613	4.55077429	4.58294817	6.04426428	1.72190050	5.09998622	1.90633661	6.81202484	4.52299523	3.66855030
NEFS 7	17	2.89058595	0.84079975	2.34693176	1.81427506	6.88397295	2.02256417	1.26281381	3.01032328	2.10346784	7.91584447	0.28463030	2.91360294	2.57070048	2.12307674	1.70828132
NEFS 8	40	8.34044028	1.21575070	7.74350356	0.72774894	17.07029411	7.05653219	6.55708012	3.26180750	3.67577507	23.88261584	4.91594306	9.67002429	0.91411640	1.06857986	1.20397607
NEFS 9	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 10	29	0.52585127	2.47089688	0.17673209	1.28209390	0.00114846	0.54787117	4.28071114	1.08110101	2.04602297	0.01083157	9.10588148	0.60104122	0.33492862	0.65504438	0.76337027
NEFS 11	48	0.39910666	12.35489458	0.03485940	2.86948621	0.00149117	0.01948622	2.52296479	1.69908958	1.65447336	0.00312600	2.13298790	0.02150471	1.94330395	4.50105141	8.90553361
NEFS 12	18	0.62875353	2.87032463	0.09374416	1.01358987	0.00042969	0.01049524	7.83711822	0.50289768	0.56773096	0.00043899	7.53967496	0.21702876	0.22673972	0.28137128	0.77537672
NEFS 13	68	11.82302597	0.78011183	20.47977361	0.96907999	34.78618838	23.37086366	6.51655862	8.51808436	9.23122094	17.35427814	2.14366875	15.64328752	4.38538903	2.22785146	2.64551911
New Hampshire Permit Bank	4	0.00082216	1.14528578	0.00003406	0.03234858	0.00002026	0.00001788	0.02180780	0.02847784	0.00615970	0.00000324	0.06070430	0.00003630	0.01940243	0.08135658	0.11135191
Sustainable Harvest Sector 1	22	2.27065603	2.97394879	2.26814141	3.82333744	0.75985178	0.11191776	2.17301939	5.36146512	3.86767505	5.63770961	3.29020132	0.74983812	2.99124424	4.43171281	2.68939055
Sustainable Harvest Sector 2	38	2.44932546	4.83857136	1.24018013	3.09928041	3.54799768	3.07190342	4.16162984	3.38856383	2.96435822	3.62980206	4.32153323	3.45263749	3.10638146	5.94749853	6.25026810
Sustainable Harvest Sector 3	86	23.33212075	9.00613498	33.86808278	32.73554226	21.72815141	13.23469673	15.09948417	30.10337722	27.81948208	29.53444092	4.67473756	30.47574019	40.62768063	33.48494809	25.40530189
Common Pool	492	2.92525913	3.17251626	2.01406318	2.51352916	3.54945135	18.87228114	4.59210862	2.65208869	2.70543337	3.98586655	5.05174830	11.77607805	1.30708713	1.21216525	0.98552021

\* The data in this table are based on final fishing year 2020 sector rosters.

**Table 3 -- Preliminary ACE (in 1,000 lbs), by Stock, for Each Sector for Fishing Year 2021\*#^**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	18	278	4	240	2,758	47	2	0	33	31	34	1	28	5	49	47	1,439
MCCS	3	52	72	392	4,513	2,039	4	1	56	726	280	12	8	8	744	588	5,366
MPB	0	3	7	6	64	255	0	0	5	69	21	0	1	0	71	74	721
Mooncusser	17	264	20	466	5,358	688	1	0	39	45	50	10	5	9	230	258	2,314
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	144	163	1,336	15,368	5,094	4	1	381	658	421	37	54	18	1,339	417	6,305
NEFS 3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 4	11	164	68	727	8,365	2,011	5	1	97	563	256	8	16	4	578	368	2,919
NEFS 5	1	11	0	102	1,173	1	3	7	3	26	16	5	0	50	1	4	18
NEFS 6	5	70	19	448	5,157	999	7	2	69	271	175	20	11	8	590	201	1,559
NEFS 7	4	64	5	293	3,375	411	14	1	19	178	61	91	1	12	223	95	726
NEFS 8	12	185	7	968	11,134	165	36	2	99	193	106	275	11	40	79	48	512
NEFS 9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 10	1	12	15	22	254	291	0	0	65	64	59	0	20	2	29	29	325
NEFS 11	1	9	75	4	50	650	0	0	38	100	48	0	5	0	168	200	3,786
NEFS 12	1	14	17	12	135	230	0	0	119	30	16	0	17	1	20	13	330
NEFS 13	17	262	5	2,560	29,448	220	73	8	99	504	267	200	5	65	380	99	1,125
NHPB	0	0	7	0	0	7	0	0	0	2	0	0	0	0	2	4	47
SHS 1	3	50	18	284	3,261	867	2	0	33	317	112	65	7	3	259	197	1,143
SHS 2	4	54	29	155	1,783	702	7	1	63	200	86	42	10	14	269	265	2,657
SHS 3	34	518	55	4,234	48,699	7,420	46	4	229	1,780	804	340	10	127	3,521	1,491	10,800
<b>Common Pool</b>	4	65	19	252	2,896	570	7	6	70	157	78	46	11	49	113	54	419
<b>Sector Total</b>	141	2,155	588	12,248	140,895	22,096	203	27	1,447	5,756	2,810	1,106	210	367	8,553	4,398	42,091

\* The data in this table are based on final fishing year 2020 sector rosters.

# Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the preliminary total allocations to each sector. Final allocations will be determined using final fishing year 2021 rosters.

**Table 4 -- Preliminary ACE (in metric tons), by Stock, for Each Sector for Fishing Year 2021\*\*^**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	8	126	2	109	1,251	21	1	0	15	14	15	0	13	2	22	21	653
MCCS	2	23	33	178	2,047	925	2	0	25	329	127	5	4	3	337	267	2,434
MPB	0	1	3	3	29	116	0	0	2	31	10	0	0	0	32	33	327
Mooncusser	8	120	9	211	2,430	312	0	0	18	21	23	5	2	4	104	117	1,050
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	4	66	74	606	6,971	2,310	2	0	173	299	191	17	25	8	607	189	2,860
NEFS 3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 4	5	75	31	330	3,794	912	2	0	44	255	116	4	7	2	262	167	1,324
NEFS 5	0	5	0	46	532	0	1	3	1	12	7	2	0	23	1	2	8
NEFS 6	2	32	9	203	2,339	453	3	1	31	123	79	9	5	4	268	91	707
NEFS 7	2	29	2	133	1,531	187	7	0	9	81	28	41	0	5	101	43	329
NEFS 8	6	84	3	439	5,050	75	16	1	45	87	48	125	5	18	36	22	232
NEFS 9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 10	0	5	7	10	115	132	0	0	29	29	27	0	9	1	13	13	147
NEFS 11	0	4	34	2	23	295	0	0	17	46	22	0	2	0	76	91	1,717
NEFS 12	0	6	8	5	61	104	0	0	54	13	7	0	8	0	9	6	150
NEFS 13	8	119	2	1,161	13,357	100	33	4	45	228	121	91	2	29	172	45	510
NHPB	0	0	3	0	0	3	0	0	0	1	0	0	0	0	1	2	21
SHS 1	1	23	8	129	1,479	393	1	0	15	144	51	29	3	1	118	89	519
SHS 2	2	25	13	70	809	319	3	0	29	91	39	19	4	7	122	120	1,205
SHS 3	15	235	25	1,920	22,090	3,365	21	2	104	807	364	154	5	57	1,597	676	4,899
<b>Common Pool</b>	2	29	9	114	1,314	258	3	3	32	71	35	21	5	22	51	24	190
<b>Sector Total</b>	64	977	267	5,556	63,909	10,022	92	12	656	2,611	1,275	502	95	166	3,880	1,995	19,092

\* The data in this table are based on final fishing year 2020 sector rosters.

# Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the preliminary total allocations to each sector. Final allocations will be determined using final fishing year 2021 rosters.

## **Announcement of our Electronic Monitoring Determination**

Using the process and authority granted to us in Amendment 16 to the Northeast Multispecies FMP, and as described in regulations at § 648.87(b)(1)(v)(B), we have determined that the EM audit model is sufficient for use instead of ASM. In December 2019, we notified the New England Fishery Management Council of our intent to expand EM and allow sectors to submit an EM plan as part of the fishing years 2021-2022 sector operations plan approval process. Since 2016, we have worked with members of industry and other stakeholders to develop EM as a tool to meet sector monitoring requirements. We evaluated two models using exempted fishing permits (EFP): The audit model and maximized retention. Under the audit model, the captain records an estimated weight for all groundfish discards on an electronic vessel trip report (eVTR) and adheres to catch handling protocols at sea to ensure collection (*e.g.*, groundfish discard measurements) of discard information from the EM data. EM data are the data created in the collection of fishery-dependent data by EM systems, including the video, images, sensor data, and metadata for a trip. Under maximized retention, vessels retain and land all allocated groundfish catch, including fish below the minimum size. EM data is used to confirm the vessel's adherence to the catch retention requirements, and a dockside monitor meets the vessel at the dock to collect catch data shoreside. Based on the data collected under the EFPs, we have determined that the EM audit model is sufficient to verify a vessel's submission of information on groundfish discards and other relevant information (*e.g.*, date and time, gear category, location) for the purpose of ACE accounting, provided that the vessel's captain and crew adhere to catch handling and reporting requirements as described in the vessel-specific monitoring plan (VMP). VMPs detail specific fish handling protocols, policies and procedures, as well as the number and location of cameras. VMPs are reviewed and approved by NMFS prior to a vessel enrolling in EM to ensure the set-up is adequate to support data collection needs and requirements.

NMFS will provide a template to assist providers in developing VMPs that include the required components. Vessels may use the EM audit model to meet monitoring and reporting requirements while fishing with hook, gillnet, or trawl gear in any of the four broad stock areas. The maximized retention program will continue to operate under an EFP for fishing year 2021. This will allow us to further evaluate the sufficiency of the program for catch accounting.

In order to facilitate the adoption of the EM audit model by sector vessels, we offered a NMFS-designed audit model program for sectors to include in their proposed operations plans. Under the NMFS-designed audit model program, vessels would be required to measure groundfish discards in view of cameras and use designated discard control points for all discards. The captain and crew would have the option to use subsampling protocols for high volumes of discards if included in the vessel's NMFS-approved VMP. Participating vessels would submit EM data from all trips to their sector's contracted third-party service provider in accordance with the timeline specified by NMFS (currently 7 days). A subset of trips would be selected for review. Third-party service provider staff would review and annotate EM data for selected trips, and submit a report detailing the results to NMFS, in accordance with program requirements. NMFS would compare the third-party service provider's report to the eVTR submitted by the captain to understand the accuracy of self-reporting by EM vessels. Estimates of groundfish discards reported by the captain on the eVTR and EM data collected by the third-party service provider would serve as the basis for catch accounting .

We are announcing our determination and supporting rationale in this proposed rule to facilitate public review of, and comment on, the monitoring plans included in the sector operations plans and contracts proposed in the following section. We will approve or disapprove each plan based on its sufficiency for sector catch accounting. Any EM program employed by a sector to meet monitoring and reporting requirements must



adhere to the EM program standards described in the Fishing Years 2021-22 Sector Operations Plan, Contract, and EA Requirements guidance document located on our website: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/fishing-year-2020-sectors>.

We are also making regulatory adjustments, implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are making these adjustments to clarify the use of EM for sector monitoring as described in the regulations at § 648.87 and to ensure the FMP is implemented in accordance with the Magnuson-Stevens Act.

### **Sector Operations Plans and Contracts**

There were 16 active groundfish sectors in fishing year 2020. All 16 active sectors submitted operations plans and contracts for approval for fishing years 2021 and 2022. We are proposing to approve 16 sector operations plans and contracts for fishing years 2021 and 2022. In order to approve a sector's operations plan for fishing years 2021 and 2022, we consider whether a sector's plan is consistent with regulatory requirements and FMP objectives, and whether it has been compliant with reporting requirements from previous years, including the year-end reporting requirements found at § 648.87(b)(1)(vi)(C). Approved operations plans, provided on our website as a single document for each sector, not only contain the rules under which each sector would fish, but also provide the legal contract that binds each member to the sector for the length of the sector's operations plan. Each sector's operations plan, and each sector's members, must comply with the regulations governing sectors, found at § 648.87. In addition, each sector must conduct fishing activities as detailed in its approved operations plan.

Participating vessels are required to comply with all pertinent Federal fishing regulations, except as specifically exempted in the letter of authorization (LOA) issued by the Regional Administrator, which details any approved sector exemptions from the

regulations. If, during a fishing year, or between fishing years 2021 and 2022, a sector requests an exemption that we have already granted, or proposes a change to administrative provisions, we may amend the sector operations plans. Should any such amendments require modifications to LOAs, we would include these changes in updated LOAs and provide them to the appropriate sectors.

As in previous years, we retain the right to revoke exemptions in-season if: We determine that the exemption jeopardizes management measures, FMP objectives, or rebuilding efforts; the exemption results in unforeseen negative impacts on other managed fish stocks, habitat, or protected resources; the exemption causes enforcement concerns; catch from trips using the exemption cannot be adequately monitored; or a sector is not meeting certain administrative or operational requirements. If it becomes necessary to revoke an exemption, we will do so through a process consistent with the Administrative Procedure Act.

Each sector is required to ensure that it does not exceed its ACE during the fishing year. Sector vessels are required to retain all legal-sized allocated Northeast multispecies stocks, unless a sector is granted an exemption allowing its member vessels to discard legal-sized unmarketable fish at sea. Catch (defined as landings and discards) of all allocated Northeast multispecies stocks by a sector's vessels count against the sector's allocation. Groundfish catch from a sector trip targeting non-groundfish species would be deducted from the sector's ACE because these are groundfish trips using gear capable of catching groundfish. Catch from a non-sector trip in an exempted fishery does not count against a sector's allocation and is assigned to a separate ACL sub-component to account for any groundfish bycatch that occurs in non-groundfish fisheries.

Each sector contract details the method for initial ACE sub-allocation to sector members. For fishing years 2021 and 2022, each sector has proposed that each active sector member could harvest an amount of fish equal to the amount each individual

member's permit contributed to the sector, as modified by the sector for reserves or other management measures. Each sector operations plan submitted for fishing years 2021 and 2022 states that the sector would withhold an initial reserve from the sector's ACE sub-allocation to each individual member to prevent the sector from exceeding its ACE. A sector and sector members can be held jointly and severally liable for ACE overages, discarding legal-sized fish, and/or misreporting catch (landings or discards). Each sector contract provides procedures for sector enforcement of its rules, explains sector monitoring and reporting requirements, provides sector managers with the authority to issue stop fishing orders to sector members who violate provisions of the operations plan and contract, and presents a schedule of penalties that managers may levy on members for sector plan violations.

Sectors are required to monitor their allocations and catch. To help ensure that a sector does not exceed its ACE, each sector operations plan explains sector monitoring and reporting requirements, including a requirement to submit weekly catch reports to us. If a sector reaches an ACE threshold (specified in the operations plan), the sector must provide us with sector allocation usage reports on a daily basis. Once a sector's allocation for a particular stock is caught, that sector is required to cease all sector fishing operations in that stock area until it acquires more ACE, likely by an ACE transfer between sectors. Within 60 days of when we complete year-end catch accounting, each sector is required to submit an annual report detailing the sector's catch (landings and discards), sector enforcement actions, and pertinent information necessary to evaluate the biological, economic, and social impacts of each sector.

#### *Industry-Funded Monitoring Programs*

Sectors are responsible for designing, implementing, and funding a monitoring program that will provide the level of ASM coverage specified by NMFS for that year. We are required to determine a level of ASM coverage using a process described in

Framework 55 (81 FR 26412; May 2, 2016) that provides a reliable estimate of overall catch by sectors needed for monitoring ACEs and ACLs while minimizing the cost burden to sectors and NMFS to the extent practicable. Sectors are responsible for the at-sea portion of costs associated with the sector's monitoring program(s), even in years when reimbursement funds are available.

In fishing years 2010 and 2011, we funded an ASM program with a target ASM coverage level of 30 percent of all trips. In addition, we provided 8-percent observer coverage through the Northeast Fishery Observer Program (NEFOP), which helps to support the Standardized Bycatch Reporting Methodology (SBRM) and stock assessments. This resulted in an overall target coverage level of 38 percent for fishing years 2010 and 2011, from the combined ASM and NEFOP. Beginning in fishing year 2012, we have conducted an annual analysis to determine the total target coverage level. Table 5 depicts the annual target coverage levels. Industry has been required to pay for their ASM coverage costs since 2012, while we continued to fund NEFOP coverage. However, we were able to fund the industry's portion of ASM costs and NEFOP coverage in fishing years 2012 through most of 2015. Industry paid for their portion of the ASM program beginning in March 2016. In June 2016, after determining that the SBRM monitoring program could be fully funded with additional funding remaining, we announced that we had funds available to offset some of industry's costs of the groundfish ASM program in 2016. We reimbursed sectors for 85 percent of their ASM costs for 10 months of the fishing year, distributed through a grant by the Atlantic States Marine Fisheries Commission. In fishing year 2017, using leftover funds from the 2016 grant, we reimbursed sectors for 60 percent of industry costs in fishing year 2017. Fishing effort was lower than expected in the first few months of the fishing year, and we were ultimately able to retroactively reimburse sectors for an additional estimated 25 percent of industry's 2017 costs, which exhausted the remaining available SBRM funds.

In fiscal years 2018, 2019, 2020, and 2021, Congress appropriated \$10.3 million for groundfish ASM. With these funds, we were able to fully reimburse industry costs in fishing years 2018, 2019, and 2020.

**Table 5 -- Historic Target Coverage Level for Monitoring**

Fishing Year	Total Target Coverage Level (percent)	ASM Target Coverage Level (percent)	NEFOP Target Coverage Level (percent)
2010	38	30	8
2011	38	30	8
2012	25	17	8
2013	22	14	8
2014	26	18	8
2015	16	12	4
2016	14	10	4
2017	16	8	8
2018	15	10	5
2019	31	*	*
2020	40	*	*

\*Beginning in fishing year 2019, assignment of NEFOP coverage changed in a way that no longer provided a single coverage target across all sectors. As a result, the total target coverage level was no longer partitioned into fixed ASM and NEFOP target coverage levels.

On March 20, 2020, we issued a fleet-wide observer waiver in response to local travel restrictions and limits on gatherings. During this time, we worked with monitoring service providers to develop observer redeployment plans, finalize internal policies to promote safe and effective redeployment, and conduct outreach to industry. We initiated the redeployment process on August 14, 2020. We are currently operating under two national level observer waivers. A vessel receives a waiver if an observer or ASM is not available for deployment; or the observer provider cannot meet the safety protocols imposed by a state on the commercial fishing crew or by the vessel or vessel company on its crew. Service provider companies have experienced significant staff attrition this year as a result of the limited amount of work available, and will need to hire additional staff to meet future specified coverage levels. Given the circumstances, we do not expect sectors to meet the 40 percent target coverage level in fishing year 2020. We expect to work with sectors and service provider companies through the remainder of the year to

increase coverage levels to the extent possible, and to ensure they meet the specified coverage level when normal operations resume.

As announced in the previous section, we have determined that the EM audit model is sufficient to be used by vessels instead of ASM to meet sector monitoring requirements. Sector vessels may choose to use either ASM or the EM audit model to meet monitoring requirements, provided that the sector has a corresponding monitoring program approved as part of its operations plans, and we will no longer implement the EM audit model using an EFP. On January 26, 2021, we announced that the total target ASM coverage level will be 40 percent for fishing year 2021. Vessels that choose to use ASM to meet monitoring requirements would have a target coverage level of 40 percent for all sector groundfish trips. Vessels that choose to use EM to meet monitoring coverage requirements would use cameras and adhere to catch handling protocols as described in the VMP for all groundfish trips. Only a subset of the submitted trips would be selected for review to monitor groundfish discards for catch accounting. For fishing year 2021, NMFS would randomly select 50 percent of trips for review by a third-party service provider. A subset of the selected trips would undergo a secondary review by NMFS to monitor the third-party service provider's performance. The vessel owner or operator and the third-party service provider must provide the EM data for any given trip to NMFS, and its authorized officers and designees, upon request including, but not limited to, trips selected for secondary review. The fishing year 2022 selection rate for third-party review would be announced during fishing year 2021. The selection rate may vary annually based on vessel performance and less than 100 percent of trips would be reviewed, consistent with regulations at 50 CFR 648.87(b)(1)(v)(B)(I). Although the exact costs of groundfish monitoring for fishing year 2021 are not known at this time, we expect we will have sufficient funds to fully reimburse industry's costs for ASM and EM based on our experience in previous fishing years.

### *Proposed Industry-Funded Monitoring Programs*

The draft operations plans submitted in October 2020 include industry-funded monitoring plans for fishing year 2021. As in previous years, we gave sectors the option to design their own monitoring program(s) in compliance with regulations or elect to adopt the NMFS-designed ASM and/or EM audit model program(s). The NMFS-designed ASM program is the same program that we have used in previous fishing years. In the event that we cannot approve a proposed monitoring program, we asked all sectors to include an option to select a current NMFS-designed monitoring program as a fail-safe.

All active sectors submitted an ASM plan as part of their draft operations plans. Similar to previous years, some sectors chose to use the NMFS-designed ASM program while others proposed programs of their own design. Sector-designed ASM programs for fishing years 2021 and 2022 were similar to those approved in past years.

Sustainable Harvest Sectors 1, 2, and 3; the GB Cod Fixed Gear Sector, the Maine Coast Community Sector, and Northeast Fishery Sectors (NEFS) 5, 10, 11, and 13 have proposed to use the NMFS-designed ASM program. We propose to approve this program for these sectors because it is consistent with goals and objectives of monitoring and regulatory requirements. Sectors that operate only as permit banks, and explicitly prohibit fishing in their operations plans, are not required to include provisions for an ASM program.

We propose to approve the ASM programs proposed by the remaining five active sectors, NEFS 2, 6, 7, 8, and 12, which state that they will: Contract with a NMFS-approved ASM provider; meet the specified coverage level; and utilize the Pre-Trip Notification System for random selection of monitored trips and notification to providers. These ASM programs also include additional protocols for ASM coverage waivers, incident reporting, and safety requirements for their sector managers and members. We

have preliminarily determined that the proposed programs are consistent with the goals and objectives of ASM and regulatory requirements.

Seven sectors also submitted an EM plan as part of their draft operations plans. Of these sectors, six sectors, Sustainable Harvest Sectors 1, 2, and 3; the GB Cod Fixed Gear Sector, the Maine Coast Community Sector, and Northeast Fishery Sector 5, chose to use the NMFS-designed EM audit model program. We propose to approve this program for these sectors because it is consistent with goals and objectives of monitoring and regulatory requirements.

One sector, Northeast Fishery Sector 2, proposed an EM program of its own design. The proposed program maintained key elements of the NMFS-designed EM audit model program as the basis for its proposed EM program with modifications. We propose to approve NEFS 2's proposed program, which states that it will: Contract with an approved service provider; utilize PTNS as required; run cameras on 100 percent of groundfish trips for EM vessels; and audit trips at a rate of 50 percent. The proposed program also establishes internal protocols and controls for the sector to manage its member vessels' participation in EM. We propose to approve this program for this sector because it is consistent with goals and objectives of monitoring and regulatory requirements.

### **Previously Granted Exemptions for Fishing Years 2021 and 2022**

#### *Previously Granted Exemptions Granted for Fishing Years 2021 and 2022 (1-19)*

We are granting exemptions from the following requirements for fishing years 2021 and 2022, all of which have been requested and granted in previous years:

- (1) 120-day block out of the fishery required for Day gillnet vessels;
- (2) 20-day spawning block out of the fishery required for all vessels;
- (3) limits on the number of gillnets for Day gillnet vessels outside the GOM;
- (4) prohibition on a vessel hauling another vessel's gillnet gear;



(5) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish DAS;

(6) limits on the number of hooks that may be fished;

(7) DAS Leasing Program length and horsepower restrictions;

(8) prohibition on discarding;

(9) gear requirements in the Eastern U.S./Canada Management Area;

(10) prohibition on a vessel hauling another vessel's hook gear;

(11) the requirement to declare an intent to fish in the Eastern U.S./Canada

Special Access Program (SAP) and the Closed Area (CA) II Yellowtail

Flounder/Haddock SAP prior to leaving the dock;

(12) seasonal restrictions for the Eastern U.S./Canada Haddock SAP;

(13) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (14) sampling exemption;

(15) 6.5-inch minimum mesh size requirement for trawl nets to allow a 5.5-inch codend on directed redfish trips;

(16) prohibition on combining small-mesh exempted fishery and sector trips in SNE;

(17) extra-large mesh requirement to target dogfish on trips excluded from ASM in SNE and Inshore GB;

(18) requirement that Handgear A vessels carry a Vessel Monitoring System (VMS) unit when fishing in a single broad stock area (BSA); and

(19) limits on the number of gillnets for Day gillnet vessels in the GOM.

A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable final rules identified in Table 6 below.

**Table 6 -- Exemptions from Previous Fishing Years that Are Granted in Fishing Years 2021 and 2022**

Exemptions	Rulemaking	Date of Publication	Citation
1-2, 4-9	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
10-11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
12-14	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
3, 15-16	Fishing Years 2015-2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
17	Framework 55 Final Rule	May 2, 2016	81 FR 26412
18	Amendment 18 Final Rule	April 21, 2017	82 FR 18706
19	Fishing Year 2018 Sector Operations Final Rule	May 1, 2018	83 FR 18965
Northeast Multispecies <b>Federal Register</b> documents can be found at <a href="https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan">https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan</a> .			

## **New Exemption Requests We Will Not Approve for Fishing Year 2021**

### *Minimum Mesh Size for Gillnets Fished in Georges Bank*

For fishing year 2021, one sector requested a new exemption to allow sector vessels to use 6.0-inch (15.2-cm) mesh size to target groundfish in the GB BSA. Under current regulations, vessels are prohibited from fishing for groundfish with gillnets with mesh smaller than 6.5 inches (16.5 cm) in the GOM and GB Regulated Mesh Areas. Minimum mesh size restrictions (§ 648.80(a)(3)(i), (a)(4)(i), (b)(2)(i), and (c)(2)(i)) were implemented under previous groundfish actions to reduce overall mortality on groundfish stocks, change the selection pattern of the fishery to target larger fish, improve survival of sublegal fish, and allow sublegal fish more opportunity to spawn before entering the fishery.

Under the requested exemption, sector vessels would fish with gillnets as small as 6.0 inches (15.2 cm) in the GB BSA year-round. Vessels would restrict fishing activity to the GB BSA when fishing under the exemption. Vessels would be restricted to a maximum of 30 gillnets. Soak time would not exceed 24 hours and vessels would retrieve their gear at the end of each trip. Participating sectors would monitor exemption

usage to ensure that haddock catch makes up 75 percent or more of the total catch, based on a running three trip average. The intent of the request is to allow vessels fishing with gillnets to target GB haddock, a healthy groundfish stock.

We previously approved similar exemptions in fishing years 2010-2012, which allowed vessels to use 6.0-inch (15.2-cm) mesh gillnets to target haddock in the Gulf of Maine, however, these exemptions were disapproved in 2013 (78 FR 25591; May 2, 2013) due to concerns about GOM haddock stock status, which was poor at the time, and potential impacts on protected species. Despite improved stock status of GOM haddock, we have not re-approved an exemption in the GOM because of concerns about bycatch of GOM cod, which is in poor condition.

We are denying the request in this year's sector operations plans. Sectors submitted a similar exemption request last year, which we also denied. While GB haddock is a healthy stock and we are supportive of efforts to increase utilization of GB haddock quota, we are concerned that allowing the use of gillnets smaller than the 6.5-inch (16.5-cm) minimum mesh size may have an impact on GB cod, given that this stock is overfished and overfishing is occurring. Although some studies have shown increased selectivity of haddock with smaller mesh gillnets, selectivity curves suggest that smaller mesh gillnets will catch more smaller-sized cod and other co-occurring species than larger mesh nets. Industry and researchers have conducted studies to further investigate the selectivity of different gillnet mesh sizes, but these studies relied on limited data, did not directly investigate fishing in the proposed areas, and have yet to be peer reviewed. In addition, changes in the location and intensity of gillnet fishing may have impacts on protected resources, particularly North Atlantic right whales, which are critically endangered and are present in the requested area during certain times of year. We may reevaluate this exemption request in a future action, should further information become available.

## **Additional Sector Operations Plan Provisions**

### *Inshore GOM Restrictions*

Several sectors have proposed an operations plan provision to limit and more accurately document a vessel's behavior when fishing in an area they define as the inshore portion of the GOM BSA, or the area to the west of 70° 15' W. long. As in fishing years 2019 and 2020, we are approving this provision, but a sector may elect to remove this provision in the final version of its operations plan, and it is not a requirement under NMFS regulations.

Under this provision, a vessel that is carrying an observer or ASM would remain free to fish in all areas, including the inshore GOM area, without restriction. If a vessel is not carrying an observer or ASM and fishes any part of its trip in the GOM west of 70° 15' W. long., the vessel would be prohibited from fishing outside of the GOM BSA. Also, if a vessel is not carrying an observer or ASM and fishes any part of its trip outside the GOM BSA, this provision would prohibit a vessel from fishing west of 70° 15' W. long. within the GOM BSA. The approved provision includes a requirement that a vessel declare whether it intends to fish in the inshore GOM area through the trip start hail using its VMS unit prior to departure. We provide sector managers with the ability to monitor this provision through the Sector Information Management Module, a website where we also provide roster, trip, discard, and observer information to sector managers. A sector vessel may use a federally-funded NEFOP observer or ASM on these trips because we believe this option will not create bias in discard estimates, as fishing behavior is expected to be consistent with the standard fishery requirements such as minimum gear and fish sizes as a result of exercising this option.

### *Prohibition on a Vessel Hauling Another Vessel's Trap Gear to Target Groundfish*

Several sectors have requested a provision to allow a vessel to haul another vessel's fish trap gear, similar to the current exemptions that allow a vessel to haul

another vessel's gillnet gear or hook gear. These exemptions have generally been referred to as "community" gear exemptions. Regulations at § 648.84(a) require a vessel to mark all bottom-tending fixed gear, which includes fish trap gear used to target groundfish. This requirement helps protect against illegal hauling of gear by vessels that do not own the gear and are not authorized to tend it. To facilitate enforcement of § 648.84(a) and use of this exemption, we are requiring each vessel authorized to haul another's gillnet gear to tag that gear, similar to how this sector operations plan provision was implemented in fishing years 2014 through 2020. This allows one vessel to deploy the trap gear and another vessel to haul the trap gear, provided both vessels tag the gear prior to deployment. This requirement is included in the sector's operations plan to provide the opportunity for the sector to monitor the use of this provision and facilitate the Office of Law Enforcement and the U.S. Coast Guard's enforcement of the marking requirement. We do not expect this provision to increase effort or the amount of fish trap gear used. Instead, it would provide an efficiency and would allow a vessel to retrieve gear as a convenience.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this

proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This action proposes to approve measures submitted in 16 Northeast multispecies sector operations plans, including sector regulatory exemptions intended to provide additional operational flexibility, at-sea and electronic monitoring programs, and the allocation of ACE to sectors. Sectors must have an approved operations plan in order to operate, receive ACE allocations, and authorize member vessels to fish. Sectors operate under a series of “universal” regulatory exemptions that exempt sector vessels from some of the effort controls in the fishery management plan, as well as sector-specific exemptions, which grant additional operational flexibilities to sector vessels. Universal exemptions include exemptions from DAS, seasonal closures, and trip limits. These exemptions allow sector participants to maximize per-trip yields, more fully harvest healthy stocks, and time the market.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts less than \$11 million for all its affiliated operations worldwide. The determination of whether the entity is large or small is based on the average annual revenue for the most recent 3 years for which data are available (from 2017 through 2019).

To participate in the Northeast Multispecies Sector Program, vessels must possess a limited access multispecies permit and operate as part of a sector. Entities holding one or more limited access multispecies permits are potentially impacted by this action.

According to the commercial database, there were 627 entities that had at least one valid limited access permit during 2019, the last year for which affiliation information is available. Of these entities, 100 did not have revenues. There were 527 entities that reported revenues during 2019. Of these, 6 were classified as large and 521 were classified as small businesses.<sup>1</sup>

The proposed approval of fishing years 2021 and 2022 operations plans and the allocation of fishing year 2021 ACE to groundfish sectors will have a positive impact on all 627 entities, as it will allow them to participate in the sector groundfish fishery rather than fish under the common pool effort control regulations. Common pool regulations include limits on DAS, trip limits, gear restrictions, size limits, and closures intended to control overall fishing mortality. In addition, these effort controls would be subject to in-season modifications and fishery closures based on industry-wide landings. Conversely, the ability to participate in the sector fishery would provide increased efficiency and flexibility to fishing businesses by exempting sector members from common pool limits. The proposed rule will not have a significant economic impact on a substantial number of small entities, and small entities would not be placed at a competitive disadvantage relative to large entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number(s): 0648-0605; Northeast Multispecies Amendment 16.

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<sup>1</sup> For purposes of this analysis, groundfish limited access eligibilities held as Confirmation of Permit History (CPH) are not included because although they may generate revenue from ACE leasing, they do not generate any gross sales from fishing activity and thus would not be classified as commercial fishing entities.

## **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 24, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.2, add the definitions for “electronic monitoring data,” “raw,” and “video reviewer” in alphabetical order to read as follows:

#### **§ 648.2 Definitions.**

\* \* \* \* \*

*Electronic monitoring data* means the data that are created in the collection of fishery-dependent data by electronic monitoring systems during fishing operations, including the video, images, and other sensor data, as well as the metadata that provides information (*e.g.*, trip sail date, vessel information) about the raw data.

\* \* \* \* \*

*Raw*, with respect to electronic monitoring, means the original, unaltered video footage, images, and other sensor data collected by an electronic monitoring system.

\* \* \* \* \*



*Video reviewer* means any electronic monitoring service provider staff approved/certified by NMFS for providing electronic monitoring video review services consistent with electronic monitoring program requirements.

\* \* \* \* \*

3. In § 648.14, revise paragraph (k)(14)(x) and add paragraphs (k)(14)(xii) and (xiii) to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(k) \* \* \*

(14) \* \* \*

(x) Leave port to begin a trip before an at-sea monitor has arrived and boarded the vessel if assigned to carry an at-sea monitor for that trip, or without an operational electronic monitoring system installed on board, as specified in § 648.87(b)(5)(iii)(A).

\* \* \* \* \*

(xii) Fail to comply with the electronic monitoring system requirements as specified in § 648.87(b)(5)(iii)(A)(2).

(xiii) Fail to comply with the vessel monitoring plan requirements as specified in § 648.87(b)(5)(iii)(A)(3).

\* \* \* \* \*

4. In § 648.87,

- a. Revise paragraphs (b)(1)(v)(B) introductory text, (b)(1)(v)(B)(I) introductory text, (b)(4) introductory text, (b)(4)(i)(D) through (J), (b)(4)(ii) introductory text, (b)(4)(ii)(A)(6), (b)(4)(ii)(B) through (D), (b)(4)(ii)(G), and (b)(4)(ii)(H)(I);
- b. Add paragraphs (b)(4)(ii)(H)(4) and (b)(4)(iv); and
- c. Revise paragraphs (b)(5)(iii)(A), (b)(5)(iii)(B)(2), and (b)(5)(iv)(B).

The revisions and additions to read as follows:

**§ 648.87 Sector allocation.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) \* \* \*

(B) *Independent third-party monitoring program.* A sector must develop and implement an at-sea or electronic monitoring program that is satisfactory to, and approved by, NMFS for monitoring catch and discards and utilization of sector ACE, as specified in this paragraph (b)(1)(v)(B). The primary goal of the at-sea/electronic monitoring program is to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable. All other goals and objectives of groundfish monitoring programs at § 648.11(l) are considered equally-weighted secondary goals. The details of any at-sea or electronic monitoring program must be specified in the sector's operations plan, pursuant to paragraph (b)(2)(xi) of this section, and must meet the operational standards specified in paragraph (b)(5) of this section. Electronic monitoring may be used in place of at-sea monitors if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. The level of coverage for trips by sector vessels is specified in paragraph (b)(1)(v)(B)(I) of this section. The at-sea/electronic monitoring program shall be reviewed and approved by the Regional Administrator as part of a sector's operations plans in a manner consistent with the Administrative Procedure Act. A service provider providing at-sea or electronic monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and be approved by NMFS in a manner consistent with the Administrative Procedure Act.

*(I) Coverage levels.* Except as specified in paragraph (b)(1)(v)(B)(I)(i) of this section, any service provider providing at-sea or electronic monitoring services required under this paragraph (b)(1)(v)(B)(I) must provide coverage that is fair and equitable, and distributed in a statistically random manner among all trips such that coverage is representative of fishing activities by all vessels within each sector and by all operations of vessels operating in each sector throughout the fishing year. Coverage levels for an at-sea or electronic monitoring program, including video review requirements, shall be specified by NMFS, pursuant to paragraph (b)(1)(v)(B)(I)(i) of this section, but shall be less than 100 percent of all sector trips. In the event that a NMFS-sponsored observer and a third-party at-sea monitor are assigned to the same trip, only the NMFS observer must observe that trip. If an at-sea monitor is assigned to a particular trip, a vessel may not leave port without the at-sea monitor on board. If a vessel is using electronic monitoring to comply with the monitoring requirements of this part, it may not leave port without an operational electronic monitoring system on board.

\* \* \* \* \*

*(4) Independent third-party monitoring provider standards.* Any service provider intending to provide at-sea/electronic monitoring services described in paragraph (b)(1)(v) of this section must apply to and be approved/certified by NMFS in a manner consistent with the Administrative Procedure Act. NMFS shall approve/certify service providers, at-sea monitors, or video reviewers as eligible to provide sector monitoring services specified in this part and can disapprove/decertify service providers, individual at-sea monitors, or video reviewers through notice in writing to individual service providers/monitors/video reviewers if the following criteria are no longer being met:

(i) \* \* \*

(D) A statement, signed under penalty of perjury, from each owner, board member, and officer describing any criminal convictions, Federal contracts they have

had, and the performance rating they received on the contract, and previous decertification action while working as an observer, at-sea monitor, or video reviewer; or as an observer, at-sea, or electronic monitoring service provider;

(E) A description of any prior experience the applicant may have in placing individuals or monitoring equipment in remote field and/or marine work environments including, but not limited to, recruiting, hiring, deployment, equipment installation and maintenance, and personnel administration;

(F) A description of the applicant's ability to carry out the responsibilities and duties of a sector monitoring service provider and the arrangements to be used, including whether the service provider is able to offer at-sea or electronic monitoring services;

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover at-sea monitors (including during training) and electronic monitoring staff who provide electronic monitoring services to vessels; vessel owner; and service provider. NMFS will determine the adequate level of insurance and notify potential service providers;

(H) Proof of benefits and personnel services provided in accordance with the terms of each monitor's or electronic monitoring staff's contract or employment status;

(I) Proof that the service provider's at-sea monitors or video reviewers have passed an adequate training course sponsored by the service providers to the extent not funded by NMFS that is consistent with the curriculum used in the current yearly NEFOP training course, unless otherwise specified by NMFS;

(J) An Emergency Action Plan describing the provider's response to an emergency with any at-sea monitor or electronic monitoring staff, including, but not limited to, personal injury, death, harassment, or intimidation; and

\* \* \* \* \*

(ii) *Service provider performance requirements.* At-sea and electronic monitoring service providers must be able to document compliance with the following criteria and requirements:

(A) \* \* \*

(6) For service providers offering catch estimation or at-sea or electronic monitoring services, a service provider must be able to determine an estimate of discards for each trip and provide such information to the sector manager and NMFS, as required by this section.

(B) The service provider must ensure that at-sea monitors or video reviewers remain available to NMFS, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any monitored trip/offload or electronic monitoring trip report submission. Electronic monitoring service providers must ensure that electronic monitoring data and reports are retained for a minimum of 12 months after catch data is finalized for the fishing year. NMFS will notify providers of the catch data finalization date each year. The service provider must provide NMFS access to electronic monitoring data upon request;

(C) The service provider must report possible at-sea or electronic monitoring staff harassment; discrimination; concerns about vessel safety or marine casualty; injury; and any information, allegations, or reports regarding at-sea or electronic monitoring staff conflict of interest or breach of the standards of behavior to NMFS and/or the sector manager, as specified by NMFS;

(D) The service provider must submit to NMFS, if requested, a copy of each signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the service provider and those entities requiring services (*i.e.*, sectors and participating vessels) and between the service provider and specific dockside, roving, at-sea, or electronic monitoring staff;

\* \* \* \* \*

(G) With the exception of a service provider offering reporting, dockside, at-sea, or electronic monitoring services to participants of another fishery managed under Federal regulations, a service provider's owner(s), board member(s), and officers must not have a direct or indirect interest in a fishery managed under Federal regulations, including, but not limited to, fishing vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions and may not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing-related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of service providers;

(H) \* \* \*

(I) At-sea monitor and other approved monitoring equipment deployment or video review levels, including the number of refusals and reasons for such refusals;

\* \* \* \* \*

(4) \*\*\*

(iv) *Standards for individual electronic monitoring video reviewers.* For an individual to be approved/certified as an electronic monitoring video reviewer, the service provider must demonstrate that each potential reviewer meets the requirements described in paragraphs (b)(4)(iii)(A), (B), (E), and (F) of this section.

\* \* \* \* \*

(5) \* \* \*

(iii) \* \* \*

(A) *Vessel requirements – (1) Pre-trip notification.* In addition to all other reporting/recordkeeping requirements specified in this part, to facilitate the deployment

of at-sea monitors and electronic monitoring equipment pursuant to paragraph (b)(1)(v)(B)(I) of this section, the operator of a vessel fishing on a sector trip must provide at-sea/electronic monitoring service providers with at least the following information: The vessel name, permit number, trip ID number in the form of the VTR serial number of the first VTR page for that trip or another trip identifier specified by NMFS, whether a monkfish DAS will be used, and an estimate of the date/time of departure in advance of each trip. The timing of such notice shall be sufficient to allow ample time for the service provider to determine whether an at-sea monitor or electronic monitoring equipment will be deployed on each trip and allow the at-sea monitor or electronic monitoring equipment to prepare for the trip and get to port, or to be installed on the vessel, respectively. The details of the timing, method (*e.g.*, phone, email, etc.), and information needed for such pre-trip notifications shall be included as part of a sector's yearly operations plan. If a vessel has been informed by a service provider that an at-sea monitor or electronic monitoring equipment has been assigned to a particular trip pursuant to paragraph (b)(5)(iii)(B)(I) of this section, the vessel may not leave port to begin that trip until the at-sea monitor has arrived and boarded the vessel, or the electronic monitoring equipment has been properly installed.

(2) *Electronic monitoring system requirements.* A vessel operator using electronic monitoring to meet sector monitoring requirements must ensure that the electronic monitoring system is operational for every trip, including:

(i) Ensuring that the electronic monitoring system is operating, recording, and retaining the recording for the duration of every trip. A vessel must not fish without an operational electronic monitoring system recording and retaining the recording of activity onboard, unless issued a waiver by NMFS;

(ii) Conducting a system check of the electronic monitoring system prior to departing on a fishing trip to ensure it is fully operational, including ensuring there is sufficient video storage capacity to retain the recording of the entire fishing trip;

(iii) Ensuring camera views are unobstructed and clear, including ensuring lighting is sufficient in all circumstances to illuminate catch, so that catch and discards are visible and may be identified and quantified as required; and

(iv) Ensuring that no person tampers with, disconnects, or destroys any part of the electronic monitoring system, associated equipment, or recorded data.

(3) *Vessel monitoring plan requirements for electronic monitoring vessels.* A vessel must have a NMFS-approved vessel monitoring plan to meet sector monitoring requirements.

(i) The vessel monitoring plan must be onboard the vessel at all times.

(ii) The vessel operator and crew must comply with all catch handling protocols and other requirements described in the vessel monitoring plan, including sorting catch and processing any discards within view of the cameras and consistent with the vessel monitoring plan.

(iii) Modifications to any vessel monitoring plan must be approved by NMFS prior to such vessel fishing under the conditions of the new vessel monitoring plan.

(iv) A vessel owner or operator using electronic monitoring to meet sector monitoring requirements must submit all electronic monitoring data to the service provider in accordance with the electronic monitoring program requirements specified by NMFS.

(v) A vessel owner or operator must make the electronic monitoring system, associated equipment, electronic monitoring data, or vessel monitoring plan available to NMFS for inspection, upon request.

\* \* \* \* \*



(B) \* \* \*

(2) *At-sea/electronic monitoring report.* A report detailing area fished and the amount of each species kept and discarded shall be submitted electronically in a standard acceptable form to the appropriate sector and NMFS within 48 hour of the completion of the trip, or as otherwise instructed by the Regional Administrator. The data elements to be collected and the format for submission shall be specified by NMFS and distributed to all approved at-sea/electronic monitoring service providers and sectors. At-sea/electronic monitoring data shall not be accepted until such data pass automated NMFS data quality checks.

(iv) \* \* \*

(B) *At-sea monitoring service provider requirements.* An at-sea monitor must complete a pre-trip vessel safety checklist provided by NMFS before an at-sea monitor can leave port onboard a vessel on a sector trip. If the vessel fails a review of safety issues pursuant to this paragraph (b)(5)(iv)(B), an at-sea monitor cannot be deployed on that vessel for that trip.

\* \* \* \* \*